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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,388	12/19/2001	Ghaleb A. Sater	MIYP01-012	5072
28120	7590	03/02/2005	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP ONE INTERNATIONAL PLACE BOSTON, MA 02110-2624			PANTUCK, BRADFORD C	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,388

Applicant(s)

SATER, GHALEB A.

Examiner

Bradford C Pantuck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,8,9,14,17-19,21 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) 4-6, 11-13, 15, 16, 20, 22-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 8, 9, 14, 17-19, 21, 34-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01-24-2005
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 35 is objected to because of the following informalities: In line 2 of the claim, "yams" is assumed to be a typo. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 8, 9, 14, 18, 19, 21, and 34-36 are rejected under 35 U.S.C. 102(b) as being *clearly* anticipated by U.S. Patent No. 5,059,077 to Schmid. Regarding Claims 1, 3, 8, 9, 18, 19, and 36, Schmid discloses a plastic fastener [column 1, lines 11-12] capable of use in surgery having each and every element claimed by Applicant. Reference is made in particular to Figure 8: first member (12a/6/4/5), second member (19/12b), anchor (4), first engagement element/pin (12a), and second engagement element having an aperture (12b) [column 4, lines 27-36].
3. Regarding Claim 14, although not intended to attach anatomical structure, Schmid's fastener is made out of plastic (polyethylene) [column 2, lines 66-67] and is perfectly capable of use inside the human body.
4. Regarding Claim 21, member (12b) can be called a pin because it is long and extends towards member (12a). The first member (12a/6/4/5) has an aperture (13) that couples with the second member when they are screwed together.

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5. Regarding Claims 34 and 35, Schmid's fastener is intended to secure "insulation material" [column 1, lines 16-17] such as "rigid foamed polyurethane" [column 1, lines 54-55]. Rigid foamed polyurethane is considered to be capable of use as a sling, and can be considered a "mesh" or a "fabric".

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Publication No. 2002/0164228 A1 to Martin et al. Martin discloses in Fig. 1, first member (100) and second member (110). The first member has engagement element (104) and anchor (102). Although member (110) is an "installation tool", the combination of members (110) and member (100) is capable of fastening something. Alternatively the second member could be considered member (150) of Fig. 5. Member (150) has an interior face, exterior face, and receives engagement element (104) therein. Member (150) meets all of the structural limitations of second member of the fastener set forth in claim 1.
7. Regarding Claim 17, a plurality of engagement elements (104, 108, and 108) extends from the first member (100).

Allowable Subject Matter

8. Claim 37 is allowed.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,584,856 to Jameel et al.

U.S. Patent No. 5,122,156 to Granger et al.

U.S. Patent No. 6,736,825 to Blatter et al.

U.S. Patent No. 3,224,721 to Malmquist

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Response to Arguments

10. Applicant's arguments, see "REMARKS", filed January 24, 2005, with respect to the rejection(s) of claim(s) 1-3, 7-9, 14, 17-19, 21, and 34-37 under U.S. Patent No. 6,056,751 to Fenton, Jr., U.S. Patent No. 4,834,752 to Van Kampen, and U.S. Patent No. 6,368,326 B1 to Dakin et al. have been fully considered and are persuasive, in view of the amendments also made to the claims on January 24, 2005. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent No. 5,059,077 to Schmid.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradford C Pantuck whose telephone number is (571) 272-4701. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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February 23, 2005

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ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER

2/28/05